UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

Student Doe 1 by and through his Parents/Guardians, et al., Plaintiffs,	:	**Civil Action No. 09-2095**
v.	:	
The School District of Lower Merion, Defendant.	:	

Pro Se Petition for Access to Judicial Records

And now, this 12th day of February, 2010, comes the Petitioner, Richard Ilgenfritz and the Main Line Media News, to respectfully request access to: All documents and filings in the above named case that have been sealed by plaintiff's attorney and defendant's attorney including but not limited to Document No. 35 – Response to defendant's statement of undisputed material facts, filed January 14, 2010; Document No. 36 – Response to defendant's motion for summary judgment, filed January 14, 2010; Document No. 37 – Brief in opposition to defendant's motion for summary judgment, filed January 14, 2010; Document No. 38 – Plaintiff's exhibit filed January 14, 2010; Reply to response to motion for summary judgment, filed January 22, 2010; and Document No. 40 – sealed envelope filed January 22, 2010. In support of this Petition, we respectfully request the court to consider the following facts and argument:

1. The Lower Merion School District (the District) is a political subdivision of the Commonwealth of Pennsylvania and is represented by a nine-member Board of School Directors (the Board) who are elected by the public in four-year terms.

2. In January of 2009 the Board approved a redistricting plan that has had intense public interest. Prior to the approval, the Board held several meetings throughout 2008 asking for public input.

3. The Board hired a consultant who held meetings specifically to collect residents' suggestions about what the Board should consider in its redistricting process.

4. After the initial meetings, the District drew up four successive redistricting plans. Hundreds of residents attended subsequent meetings, offering additional public comment on each of the plans.

5. A few months after the approval of the final redistricting plan, which was highly controversial, a group of parents filed the instant lawsuit to prevent their

children from being redistricted: Student Doe, et al. v. The School District of Lower Merion.

6. In December, attorneys representing the District filed a Motion for Summary Judgment in the case.

7. Main Line Media News is a news organization in Ardmore, Pennsylvania, consisting of newspapers and Web sites that cover a portion of Philadelphia's western suburbs. Main Line Media News has been reporting on the redistricting since 2008.

8. Since the time the District first announced a need for a redistricting plan, the story has dominated public interest through countless front page news stories and in Letters to the Editor.

9. Recently attorneys representing the plaintiffs filed a response and several exhibits to the District's motion for summary judgment under seal.

10. A week later, attorneys representing the District filed its counter motion to the plaintiff's motion.

11. Although that motion was not placed under seal, exhibits that were filed along with the motion were filed under seal.

12. In both cases, the sealing is improper and in conflict with the constitutional and common-law presumption of access to judicial records as the public has an interest in judicial records and is entitled to "notice and an opportunity to be heard at a meaningful time, and in a meaningful manner" before they can be deprived of that interest. *U.S. v. Kuhner*, 349 F.Supp.2d 892 *(E.D. NJ 2005) citing United States v. Antar*, 38 F.3d 1348, 1361 n. 18 (3d Cir.1994).

13. The presumption of access can only be overcome by a showing of good cause, on the record. The burden to show good cause falls squarely on the party seeking closure, who must show the need for secrecy outweighs the presumption of access by specifying the serious injury to be prevented. *In re Cendant Corp.*, 260 F.3d 183 (3d Cir.2001). Broad allegations of harm to a party, unsubstantiated by specific examples or articulated reasoning, fail to overcome the presumption of access. *Id.* Agreement by the parties to file under seal cannot trump the presumption of access and does not constitute good cause.

14. Moreover, Rule 5.1.5 of the Local Rules for the Eastern District of Pennsylvania provides that a record may only be filed under seal if "the civil action is brought pursuant to a federal statute that prescribes the sealing of the record or of certain specific documents" or "the Court orders the document sealed."

15. The parties have failed to show evidence that a federal statute prescribes sealing and the docket does not illustrate an on-the-record determination of good cause to seal or an order to seal records.

16. In the absence of evidence showing good cause for seal and evidence of superseding laws requiring the documents to be sealed in their entirety, we argue the records in this case should be open and accessible or at the very least be redacted of any non-public information such as the names of children under age 18.

For all the foregoing reasons, we respectfully request this Honorable Court to grant access to the requested records.

Respectfully filed pro se by:

Richard Ilgenfritz, Reporter
Main Line Media News
311East Lancaster Avenue
Ardmore PA
610-642-4300

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Student Doe 1 by and through his Parents/Guardians, et al., Plaintiffs,	:	**Civil Action No. 09-2095**
v.	:	
The School District of Lower Merion, Defendant.	:	

Certificate of Service

I, Richard Ilgenfritz, hereby certify that a true and correct copy of the foregoing was served upon the parties listed below on the 12th day of February, 2010, via First Class mail, postage pre-paid.

Attorney for Plaintiff
David G.C. Arnold, Esquire
Suite 109, Royal Plaza
915 Montgomery Avenue
Narberth, PA 19072

Attorney for Defendant
Judith E. Harris (PA I.D. No. 02358)
Christina Joy F. Grese (PA I.D. No. 200727)
Allison N. Suflas (Pa I.D. No. 204448)
Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103
215-963-5028/5085/5752

Michael D. Kristorco, Esquire
Kenneth A. Roos, Esquire
WISLER PEARLSTINE, LLP
484 Norristown Road
Blue Bell, PA 19422
610-825-8400

Date: Feb. 12, 2010

Richard Ilgenfritz